

Department any information concerning any crime or other unlawful action); Rule 22 (failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, order or directives of the Department); Rule 41 (disseminating, releasing, altering, defacing or removing any Department record or information concerning police matters except as provided by Department orders); and Rule 46 (advising any person engaged in a professional or commercial service that such professional or commercial services may be needed). The facts underlying the charges include that Takaki: (1) divulged the contents of LEADS/Secretary of State records to a non-Departmental person in violation of a general order (Rule 6); (2) failed to report alleged bribe-taking by 14th District officers from tow truck drivers of which he was aware (Rules 21 and 22); (3) accessed the LEADS/NCIC/Illinois Secretary of State databases from Department computers and disseminated the information to a citizen for no official police purpose (Rule 41); and (4) called a tow truck driver to traffic crashes and to the 14th District to tow vehicles involved in vehicle crashes (Rule 46).

Hearing Officer Jacqueline A. Walker conducted a video-recorded hearing on August 28, 2013. Based on Takaki's guilty plea, the hearing concerned facts in mitigation and aggravation. The following witnesses testified: Chicago police officers Commander Gary Yamashiroya; Lieutenant Kevin Friedrich; Sergeants Luis Alverio, Nelson Perez, and Adnardo Gutierrez; Detectives Cruz Reyes and Blasé Forias; as well as Takaki. The hearing officer admitted documents into evidence, including numerous Department Commendations and Honorable Mentions awarded to Takaki, along with

many other written commendations of Takaki's work as a Chicago police officer. After the hearing, the Board members read and reviewed the record of the proceedings, viewed the video-recording of the testimony of the witnesses, heard Hearing Officer Walker's oral report, and conferred with Hearing Officer Walker on the credibility of the witnesses and the evidence.

On September 19, 2013, the Board issued its "Findings and Decision" (Decision), in which the Board ordered Takaki discharged from his position as a detective with the Department of Police, with one Board member dissenting as to the penalty. The Board considered the facts of the case against Takaki, as well as his extensive "complimentary" history and lack of prior disciplinary history.

As to the facts, the Board explained that Takaki called his long-time acquaintance Nezario Arocho, a tow truck driver, to the scene of traffic crashes in order for Arocho to get towing business. In addition, Takaki believed, from what Arocho told him, that two police officers were engaged in wrongdoing and "perhaps they were taking money." (Decision, pp. 6-7). Yet Takaki did not report these allegations to the Department until after he was interviewed by the FBI as part of an investigation of tow truck drivers in the 14th District.

The Board made it clear that Takaki had not been charged with participating in any illegal activity. However, the Board reasoned that Takaki's eventual reporting of the activity and the favorable evidence of his years of service do not mitigate the seriousness of his conduct. The Board stated: "No police officer, even one as highly decorated and contrite as Takaki, can be allowed to remain on the job when he receives

allegations that fellow officers were taking bribes, believes that wrongdoing was going on, yet fails to promptly report the allegations to the Department. Such conduct is the type of behavior that perpetuates police corruption, and which seriously undermines public confidence in the Police Department." (Decision, p. 5).

ANALYSIS

Judicial review of an administrative decision to discharge an employee requires the court to determine first, whether the agency's finding of guilt is against the manifest weight of the evidence, and second, whether the findings of fact sufficiently support the agency's conclusion that cause for discharge exists. *Walsh v. Board of Fire and Police Commissioners of the Village of Orland Park*, 96 Ill. 2d 101, 105 (1983). Because Takaki pled guilty to the charges, this case presents only the latter issue.

Cause for discharge is a shortcoming which renders a police officer's continued employment with the department detrimental to the discipline and efficiency of the police force and which the law and sound public opinion recognize as a good reason for the officer not to occupy that position. See *Yeksigian v. City of Chicago*, 231 Ill. App. 3d 307, 312 (1st Dist. 1992); see also *Caliendo v. Martin*, 250 Ill. App. 3d 409, 418 (1st Dist. 1993) (cause exists where misconduct "manifests a disrespect for the law and tends to undermine public confidence in the honesty and integrity of the police force"). An officer's violation of a single rule may be sufficient cause for discharge. See *Siwek v. Police Board of the City of Chicago*, 374 Ill. App. 3d 735, 738 (1st Dist. 2007).

"An administrative tribunal's finding of 'cause' for discharge commands our respect, and it is to be overturned only if it is arbitrary and unreasonable or unrelated to

the requirements of the service." *Walsh*, 96 Ill. 2d at 105. The question is not whether the court would decide upon a more lenient sanction or conclude in view of the mitigating circumstances that a different penalty would be more appropriate. *Id.* at 106.

Takaki points out that he accepted responsibility for his actions, pled guilty, and sought leniency. He emphasizes that the record reflects that he violated departmental rules but he neither committed nor witnessed criminal conduct. He argues that the Board disregarded the reasoning behind his failure to report the allegations of misconduct, specifically, his uncertainty about the credibility of Arocho's statements. Takaki also argues that the Superintendent knew of his violations but continued to employ him with full police powers for nearly three years. Finally, Takaki contends that the Board failed to give serious consideration to his extensive mitigation evidence.

Takaki's conduct may not have been as egregious as that of the officers he belatedly reported. However, he pled guilty to numerous violations, including failing to report alleged bribe-taking by 14th District officers of which he was aware. Rule 21, which is among the rules Takaki pled guilty to violating, refers not to a specific source or type of information, but rather, to "*any information* concerning any crime or other unlawful action" (emphasis added). It is reasonable to conclude that employing an officer who is aware of allegations of serious wrongdoing by fellow officers, but who fails promptly to report the allegations would tend to undermine public confidence in the honesty and integrity of the police force. The record reflects that the Board weighed Takaki's excellent record in the performance of his duties against the serious nature of his misconduct.

The record contains no explanation for the Superintendent's apparent decision not to strip Takaki of his police powers at the time he learned the facts supporting the charges against Takaki. However, whether Takaki should remain employed as a police officer pending an investigation, hearing, and decision presents a different question from whether Takaki should remain employed as a police officer after pleading guilty to the rules violations with which he was charged. Thus, Takaki's continued employment under the circumstances adds no weight to the factors in mitigation.

Here, the majority of the Board reasonably concluded that the nature of Takaki's conduct warranted discharge. The Board's decision to discharge Takaki was not excessive, unduly harsh, or unrelated to the needs of service. The facts of record sufficiently support the Board's conclusion that cause for discharge exists.

IT IS HEREBY ORDERED:

1. The administrative decision of the City of Chicago Police Board to discharge Chicago police officer Michael Takaki is affirmed.
2. The status date of October 24, 2014 at 10:15 a.m. is stricken.

ENTER: Judge Kathleen G. Kennedy

~~OCT 15 2014~~

Circuit Court - 1718